

**M I N U T E S**  
**SCOTTSDALE CITY COUNCIL**  
**CITY COUNCIL MEETING**  
**Monday, August 25, 2003**

**The Kiva  
City Hall  
Scottsdale, Arizona**

**MINUTES**  
**SCOTTSDALE CITY COUNCIL**  
**CITY COUNCIL MEETING**  
**Monday, August 25, 2003**

**CALL TO ORDER (IN CITY HALL KIVA FORUM)**

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Monday, August 25, 2003 in the Kiva, City Hall, at 5:08 P.M.

**ROLL CALL**

Present: Mayor Mary Manross  
Vice Mayor Ned O'Hearn  
Council Members David Ortega, Tom Silverman, Robert Littlefield,  
Wayne Ecton, and Cynthia Lukas

Also Present: City Manager Jan Dolan  
City Attorney Brad Woodford  
City Clerk Sonia Robertson

**Announcement**

Mayor Manross congratulated City Court Administrator Janet Cornell who received the prestigious Star Award at the National Association for Court Management's annual conference this month in Washington D.C. The Star Award is presented each year to an Institute for Court Management Fellow who demonstrates excellence in the advancement of court administration through leadership and education. Star Award contenders are recognized by their peers for positive contributions to the profession of court administration.

**Boards, Commissions and Committees**

Before nominations for each commission, Vice Mayor O'Hearn briefly identified the appropriate commission and its purpose along with any special qualifications for the vacant position(s), if any.

Historic Preservation Commission (1)

Councilwoman Lukas nominated Kathleen Howard

Since no other nominations were received, Vice Mayor O'Hearn closed the floor for nominations.

**Kathleen Howard** was unanimously appointed to the Historic Preservation Commission.

Human Services Commission (1)

Councilwoman Lukas nominated Donna Reid

Since no other nominations were received, Vice Mayor O'Hearn closed the floor for nominations.

**Donna Reid** was unanimously appointed to the Human Services Commission.

Public Safety Personnel Retirement Board (1)

Mayor Manross nominated Steven Springborn as per A.R.S. 38-847.

**Steven Springborn** was confirmed by Council and reappointed to the Public Safety Personnel Retirement Board by unanimous vote.

Tourism Development Commission (1)

Councilman Ortega nominated Margaret Dunn

**Margaret Dunn** was unanimously appointed to the Tourism Development Commission.

**Public Comment**

**Daniel Basinger**, 29503 N. 107<sup>th</sup> Place, spoke as the Chairman of the Environmental Quality Advisory Board. He explained that the group is planning on presenting Council with a work plan for their approval in the near future followed by a State of the Environment report in November. He then reminded everyone that the city is hosting an electronics recycling event on Saturday, September 13<sup>th</sup>, at 9191 E. San Salvador. He urged the public to visit the city's website for more information. He stressed that the area is still in a drought and urged everyone to use water wisely.

**Consent Agenda**

**1. Airport Cholla Parcel Infrastructure Improvements**

**Request:** Authorize bid award No. 03PB087 to M.D. Merrett Construction, Inc., for \$69,945.30, to add water and sewer and re-pave asphalt on the Cholla parcel; and authorize the transfer of \$72,394 FY 03/04 Aviation Grants budget (641-37013-54901) to the Aviation Capital Project Fund for the Cholla Parcel project (642-A9903-54260). Grant budget includes contingency in the event change orders are needed. The contingency is funded by the Arizona Department of Transportation (ADOT) grant agreement.

**Staff Contact(s):** Scott T. Gray, Aviation Director, (480) 312-7735, [sgray@scottsdaleaz.gov](mailto:sgray@scottsdaleaz.gov); John Little, Transportation General Manager, 480-312-2539, [jlittle@scottsdaleaz.gov](mailto:jlittle@scottsdaleaz.gov)

**2. Approve an agreement to continue to provide concession services at Scottsdale Stadium**

**Request:** Adopt Resolution No. 6353 approving agreement number 2003-130-COS between the City of Scottsdale and Arizona Sportservice, Inc. to continue to provide concession services at Scottsdale Stadium to the COS for all events except from January 15 through April 15 of any year during the Spring Training use period.

**Staff Contact(s):** William J.S. Exham, Jr., Community Services General Manager, 480-312-2377, [bexham@scottsdaleaz.gov](mailto:bexham@scottsdaleaz.gov)

**3. Intergovernmental Agreement between the City and the Scottsdale School District relating to access to sports fields for field rehabilitation**

**Request:** Adopt Resolution Number 6351 and Intergovernmental Agreement #2003-120-COS between the City and the Scottsdale School District which will allow City staff and contractors access to the six most heavily used youth sports fields on school district property for the purpose of twice per year field rehabilitation.

**Related Policies, References:**

- Youth Sports Task Force Report
- Intergovernmental Agreement # 2000-043-COS ("Master Agreement" between the City and the Scottsdale Unified School District.

**Staff Contact(s):** Debra Baird, Parks, Recreation and Facilities Director, 480-312-2480, [dbaird@ScottsdaleAZ.gov](mailto:dbaird@ScottsdaleAZ.gov)

Mayor Manross opened public testimony.

**Nona Oliver**, 6908 E. Portland, expressed her desire for Council to approve this item. She urged the City to explore other types of grass for future soccer fields that would not have to be submerged for two solid weeks.

**Larry Heath**, 8608 E. Gail Road, explained his belief that the IGA is needed to start the process of restoring the balance of maintenance as it relates to sports fields adjacent to schools. He noted that with this agreement, the fields in central Scottsdale will finally be receiving maintenance twice per month as compared to the once per week in the northern part of the city.

Mayor Manross closed public testimony.

**4. Intergovernmental Agreement with Arizona Game and Fish—Urban Fishing Program (Chaparral Lake).**

**Request:** Adopt Resolution No. 6338 authorizing Intergovernmental Agreement No. 2003-124-COS with the Arizona Game and Fish Department to provide funding for the stocking of fish at Chaparral Lake for the years 2003-04, 2004-05, 2005-06. The effect of this Agreement is to allow for the continuation of the Urban Fishing Program at Chaparral Lake.

**Related Policies, References:** Resolution No. 5562 and Intergovernmental Agreement No. 2000-059-COS with the Arizona Game and Fish Department were adopted by the City Council on June 19, 2000 for fiscal years 2000-01, 2001-02, 2002-03.

**Staff Contact(s):** William J.S. Exham, Jr., Community Services General Manager, 480-312-2377, [bexham@scottsdaleaz.gov](mailto:bexham@scottsdaleaz.gov)

**5. Upgrade Verizon Wireless facility at Aztec Park**

**Request:** Adopt Resolution No. 6250 authorizing Agreement No. 980150A with Verizon Wireless (VAW) LLC, a Delaware Limited Liability Company dba Verizon Wireless, to amend Agreement No. 980150 leasing a portion of City-owned land at 13636 N. 100<sup>th</sup> Street to Verizon Wireless to operate a wireless telecommunication antenna site. The effect of this amendment is to re-orient wireless antennas for improved wireless reception and transmission.

**Related Policies, References:**

- Resolution No. 5189 was approved by the City Council on February 1, 1999 authorizing Lease Agreement 980150 with Verizon Wireless.
- DRB Case No. 1-DR-1992#3 was approved on February 21, 2002 allowing the proposed modifications. The approval has been extended through February 21, 2004.

- Resolution No. 6247 and Ordinance 3493 were adopted by the City Council on March 4, 2003 affirming the wireless communications ordinance text amendment.  
**Staff Contact(s):** Al Dreska, Municipal Services General Manager, 480-312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov); William J.S. Exham, Jr., Community Services General Manager, 480-312-2377, [bexham@scottsdaleaz.gov](mailto:bexham@scottsdaleaz.gov); Carder Hunt, Information Systems General Manager, 480-312-2795, [chunt@scottsdaleaz.gov](mailto:chunt@scottsdaleaz.gov)
6. **Construction Bid Award for the 64<sup>th</sup> Street/Oak Street Sanitary Sewer**  
**Request:** Authorize Construction Bid Award No. 03PB045 to M.D. Merrett Incorporated, the lowest responsive bidder, at their lump sum base bid of \$46,600.42.  
**Staff Contact(s):** Annette Grove, Sr. Project Manager, 480-312-2399, [agrove@scottsdaleaz.gov](mailto:agrove@scottsdaleaz.gov); Al Dreska, Municipal Services General Manager, 480-312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)
7. **Engineering Services Contract for 104<sup>th</sup> Street Road and Drainage Improvements – Desert Cove to Mary Katherine Drive**  
**Request:** Authorize Engineering Services Contract 2003-129-COS with Carter Burgess in the total amount of \$68,508.00 for the design of roadway and drainage improvements on 104<sup>th</sup> Street from Desert Cove Avenue to Mary Katherine Drive.  
**Related Policies, References:**
  - Design Concept Report – 104<sup>th</sup> Street Widening, Desert Cove Avenue to Mary Katherine Drive (10/25/01).
  - Transportation Commission and Parks & Recreation Commission Review (7/18/02).
  - Proposed Master Streets Plan, 2003**Staff Contact(s):** Corey E. Lew, Project Manager, (480) 312-7769, [clew@scottsdaleaz.gov](mailto:clew@scottsdaleaz.gov); Al Dreska, Municipal Services General Manager, 480-312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)
8. **Construction of Streetscape Segment along McDowell Road**  
**Request:** Authorize Construction Bid Award No. 03PB122 to Benchmark Construction, the lowest responsive bidder, at their lump sum bid of \$ 99,993.90, for installation of the landscaping along McDowell Road (7100 E. Block) adjacent to the 5 Star Ford Dealership.  
**Related Policies, References:**
  - 1991 McDowell Streetscape Guidelines
  - McDowell Corridor Improvements Master Plan dated 12/12/2002
  - Council approval on 02/18/2003 authorizing Architectural Services Contract No. 2003-026-COS
  - DRB stipulations 39-DR-2002 and DRB approval of the design 79-SA-2003**Staff Contact(s):** Marek Urbanek, Project Manager, (480) 312-2563, [murbanek@scottsdaleaz.gov](mailto:murbanek@scottsdaleaz.gov); Al Dreska, Municipal Services General Manager, 480-312-2776, [adreska@scottsdaleaz.gov](mailto:adreska@scottsdaleaz.gov)
9. **Refunding of City General Obligation Bonds**  
**Request:** Adopt Resolution No. 6347 authorizing the issuance and ordering and approving the sale of City of Scottsdale General Obligation Refunding Bonds, Series 2003 in an aggregate principal amount not to exceed \$16,800,000; authorizing the negotiation, execution and delivery of certain agreements, including a Bond Purchase

Agreement by the City Treasurer; and selecting RBC Dain Rauscher as underwriter for the bond sale.

**Staff Contact(s):** Rebecca A. Eickley, Finance and Energy Manager, (480) 312-7084  
[reickley@ScottsdaleAZ.gov](mailto:reickley@ScottsdaleAZ.gov)

**10. Telecommunications License Issued to Midvale Telephone Exchange**

**Request:** Adopt Resolution No. 6345 authorizing City Council to approve Telecommunications License Issued to Midvale Telephone Exchange for the construction, installation and operation of a telecommunications network.

**Related Policies, References:** Midvale Telephone Exchange is engaged in the business of providing communications services in State of Arizona and has obtained a Certificate of Public Convenience and Necessity issued by the Arizona Corporation Commission. Licensee has applied to City for permission to use the streets and public ways in the City in order to provide telecommunications services as defined in A.R.S. §9-581.

License is granted under the terms and requirements of the City of Scottsdale City Code Chapter 47, Article VI.

**Staff Contact(s):** Kevin Sonoda, Telecommunications Policy, 480 312-4138, [ksonoda@scottsdaleAZ.gov](mailto:ksonoda@scottsdaleAZ.gov); Brad Hartig, Information Systems Enterprise Director, 480-312-7615, [bhartig@scottsdaleaz.gov](mailto:bhartig@scottsdaleaz.gov)

In response to questions from Councilman Silverman, Karen Williams with Midvale Telephone Exchange explained that the area code for this area is 928. The AZ Corporation Commission approved a change to the 480 area code approximately two weeks ago at their hearing. She confirmed that the AZ Corporation Commission sets rates. The base charge for Midvale is approximately \$24 dollars per month with an additional charge of \$10 per month per line to help defray the cost of service. She explained that there is no call data to base the costs upon since there is no service currently available in the area. She stated that although she was uncertain of Quest's exact rates, she believed they are \$14 or \$15 per month.

Mayor Manross opened public testimony.

**Sam West**, 8160 N. Hayden, J-210, explained that he has been involved in this matter for approximately a year. He commended Midvale for taking the matter on since Quest would not. He suggested that the city look into the possibility of using the state fund that was created to deal with disparity in phone charges to help defray the cost of service for residents.

Mayor Manross closed public testimony.

In response to additional questions from Councilman Silverman, Ms. Williams explained that there is an Arizona State Universal Service Fund that was designed with the interest of providing services to areas currently not receiving service. She noted that the Corporation Commission decided that they would not rule to use these funds in this particular case due to concerns over timing.

Councilman Silverman suggested that Council add a stipulation that would ensure that the area is a 480 exchange. Ms. Williams expressed concerns over Council adding such a stipulation since such an action would cause delays in installation and service being provided.

**11. Super Bowl 2008 Bid Support**

**Request:** Council is requested to approve Resolution No. 6359 outlining Scottsdale's intent to support the Arizona Super Bowl Host Committee's (the Host Committee) presentation to the National Football League (NFL) requesting that the metropolitan Phoenix area be selected to host Super Bowl NFL Official Events and the Super Bowl XLII game at Cardinal Stadium in Glendale in 2008.

**Staff Contact(s):** Kathy Carlisle O'Connor, Tourism Development Manager, 480-312-7057, [kcoconnor@scottsdaleaz.gov](mailto:kcoconnor@scottsdaleaz.gov)

**12. Certification of Baseline Court Collections to State Treasurer**

**Request:** Adopt Resolution #6356 certifying Scottsdale City Court quarterly baseline collections for Fiscal Year 2002-2003 to the Arizona State Treasurer, as required by ARS 12-116.04.

Submission of this certification to the State Treasurer is due no later than September 1, 2003. Based upon current estimates, the best literal interpretation of ARS 12-116.04, the City Court affirms these collection amounts for quarters 1-4 of Fiscal Year 2002-2003 as indicated below:

Quarter 1: \$1,699,606

Quarter 2: \$1,985,584

Quarter 3: \$2,401,392

Quarter 4: \$2,447,077

Total fiscal year: \$8,533,659

Authorize the Court Administrator to conduct the ongoing quarterly certification on behalf of the City Council and to document the quarterly remittal to the State of Arizona.

**Staff Contact(s):** Janet Cornell, Court Administrator, 480-312-2775, [JCornell@ScottsdaleAz.gov](mailto:JCornell@ScottsdaleAz.gov)

**13. Exclusive Right to Negotiate on 13.3 acres of City property at Granite Reef & McDowell Roads**

**Request:** Extend RED Group, LLC's Exclusive Right to Negotiate from August 25, 2003 to October 21, 2003.

**Related Policies, References:**

- Council action to approve purchase of the site: 1/21/01
- Council presentation regarding community outreach: 5/14/01
- Master planning contract with EDAW: 2/19/02
- Council planning update: 5/13/02
- Council direction to move forward with RFP process: 7/1/02
- Council action granting Exclusive Right to Negotiate to Trend Homes: 1/21/03

Council action granting Exclusive Right to Negotiate to RED Group, LLC: 3/31/03

**Staff Contact(s):** David Roderique, Economic Development General Manager, 480-312-7601, [droderique@scottsdaleaz.gov](mailto:droderique@scottsdaleaz.gov); Laurel Edgar, Revitalization Manager, 480-312-7313, [ledgar@scottsdaleaz.gov](mailto:ledgar@scottsdaleaz.gov)

Councilman O'Hearn asked for additional information on the reason for the request for extension. Ms. Dolan explained that it is simply a timing issue. She assured Council that the extension wouldn't interrupt the overall schedule.

Councilman Ortega explained that the senior center is a \$10 million investment and is a very exciting project. He noted that he would be attending the upcoming Planning Commission meeting to ensure that all the issues are addressed.

Mayor Manross opened public testimony.

**Norwood Sisson**, 7431 E. Portland, spoke about planning. He noted that if the city wants to make plans, such as redevelopment plans, the city should follow the law.

Mayor Manross closed public testimony.

**\*\*\*14. Contracts for Litigation Legal Services The Pennartz Law Firm (This item is now the last item on the Regular Agenda)**

**15. Acceptance of \$50,000 from Fort McDowell Yavapai Nation, in accordance with Proposition 202, the 17 Tribe Indian Self-Reliance Initiative. Funds to be used to promote tourism in Scottsdale and surrounding areas.**

**Requests:**

- Adopt Resolution No. 6372 to authorize Intergovernmental Agreement (IGA) No. 2003-137-COS that will enable the City to accept and appropriate \$50,000 from the Fort McDowell Yavapai Nation to promote tourism in Scottsdale and surrounding areas. This IGA is in accordance with Proposition 202, ARS 5-601 and the August 2003 scope of work prepared by the Scottsdale Convention and Visitors Bureau (CVB). These funds would be appropriated in to the City's General Fund Contingency and subsequently transferred into the CVB's contract.
- Authorize transfer of the \$50,000 from the General Fund Contingency to the Scottsdale CVB Contract No. 2003-100-COS.
- Authorize an amendment to the Scottsdale CVB Contract No. 2003-100-COS recognizing the change to the CVB's contract. Funding for the contingency budget to be provided by the Fort McDowell Yavapai Nation -- and will not impact the City's General Fund.

**Related Policies, References:** Proposition 202; ARS 5-601; Resolution 6362 (adopted by Council on July 1, 2003); August 2003 scope of work to the Fort McDowell Yavapai Nation outlining how the CVB will invest the \$50,000.

**Staff contact:** Kathy Carlisle O'Connor, Tourism Manager,  
[kcoconnor@ScottsdaleAZ.gov](mailto:kcoconnor@ScottsdaleAZ.gov), 480-312-7057

COUNCILMAN ORTEGA MOVED TO APPROVE CONSENT ITEMS 1, 2, 4, 6, 7, 8, 9, 11, 12, AND 15. COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 7/0.

COUNCILMAN ORTEGA MOVED TO APPROVE CONSENT ITEMS 3, 5, 10, AND 13. COUNCILMAN SIVLERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

## Regular Agenda

### 16. C.A.P. Basin Park

**Request:** Approve a Municipal use master site plan for a City park on 71 +/- acres located at the northeast corner of Hayden and Bell Roads with Townhouse Residential, Planned Community Development (R-4 PCD) zoning.

**Location:** E. Bell Rd./N. Hayden Rd. (NE)

**Reference:** 2-UP-2003

**Staff Contact(s):** Al Ward, Senior Planner, 480-312-7067, [award@ScottsdaleAZ.gov](mailto:award@ScottsdaleAZ.gov); Kroy Ekblaw, 480-312-7064, Planning & Development Services General Manager, [kekblaw@scottsdaleaz.gov](mailto:kekblaw@scottsdaleaz.gov)

Kroy Ekblaw introduced item 16 with a brief slide presentation, which has been outlined below.

### **Municipal Use Master Site Plan 2-UP-2003**

Request:

- Parking across the entire site for events (approx. 71 acres)
- Drainage – (Regional storm water management)
- Park Site

Bill Exham presented information as it relates to the proposed park.

Background

- City acquired land in 1995 for parking during the Phoenix Open
- Increasing demand for athletic fields (growing population; limited sites)
- Approved in Bond election - September 2000
- Project funded: July 2001

### **Community Involvement**

- Informational signs posted-2001
- 3 public input meetings - average attendance of 80-100 people
- 2 joint meetings of Transportation & Parks/Rec. Commission
- Planning Commission – April 8, 2003 recommended approval
- Additional neighborhood meetings regarding transportation issues
- Informational signs posted-2001
- 3 public input meetings - average attendance of 80-100 people
- 2 joint meetings of Transportation & Parks/Rec. Commission
- Planning Commission – April 8, 2003 recommended approval
- Additional neighborhood meetings regarding transportation issues

Mr. Exham stated that the Transportation Commission approved the alignment of Princess Road while the Parks and Recreation Commission approved the Municipal Use Master plan for the site. The Planning Commission approved the Master Plan for the site and is recommending approval by Council.

The site is located in the planning unit that will have approx 108, 000 people by the year 2020. More than 28% of the people are under the age of 18; therefore, the site is ideally located to serve the community.

He pointed out that there are no softball or baseball fields planned on the site since the necessary amenities for this type of activity would significantly reduce the available parking due to dugouts, fences, etc.

During community meetings, neighbors expressed concerns of the impact on homes. In response, neighborhood buffers were designed with landscaping.

Princess Drive will be recessed through the site with a pedestrian bridge to bring people safely into the middle of the facilities.

### **Background**

- Must retain parking capacity for Phoenix Open (6,000 – 7,000 cars)
- Need to retain storm water storage capacity at basin

### **Issues/Answers:**

Issue: Neighbors requested “neighborhood park amenities”

Answer: Reduced number of fields from 11 to 10; added lighted basketball court, playground, ramadas, open turf area

Issue: Neighbors want a place to walk & jog

Answer: Added walking/jogging path & trail around park perimeter

Issue: Neighbors to the north concerned about impact of sport fields

Answer: Reduce length of fields; provide landscape buffering; move basketball court to south

Issue: Citizens concerned about safe crossing of Princess Dr.

Answer: Locate Princess Drive below grade with pedestrian bridge at grade

Issue: Citizen concern regarding impact of lighted fields

Answer:

- Fields recessed 20-30 ft.-reduces glare
- Off at 11:00 PM
- Limits Light Spillage
- Minimal Trespass
- Basketball lights 25'

Will there be enough parking on site for soccer tournaments?

Over 800 parking spaces on site (four separate parking areas); fields can be used for parking during special events

What is the projected water supply & will this project use potable water on the turf?

Water supply for turf will be the same as Tournament Players Club: a blend of reclaimed water and CAP water (the percentage will vary by season)

Trees and shrubs use domestic water (approx. 5% of landscape water usage)

John Little, General Manager of Transportation addressed some of the transportation issues associated with the project.

He noted that the site posed a number of challenges relating to access, safety, and neighborhood character. To address the concerns, buffers were created along Princess Drive, Princess Drive to the west of Hayden is restricted to traffic exiting the site, a traffic signal at 82<sup>nd</sup> and Bell is planned, and the median along Bell Road was cleared to improve sight distance.

Mr. Exham presented the following information.

**Next steps:**

Development Review Board  
Final construction documents  
Building permits  
Construction bidding  
Construction: Summer 2004  
Park Opens: Fall 2005

\*\*\*\*\*

Councilman Ortega suggested that a dog off-lease area be included in the park design due to the estimated number of households in the area that own dogs. Mayor Manross agreed that this request sounded feasible and requested more information. Mr. Exham explained that the addition of a dog facility at this point in the planning stage would result in considerable delays since public input and neighborhood discussions never involved this amenity. He further explained that a dog park is planned at the Grayhawk Community Park, which is located approximately one to two miles away.

Gary Meyer with Parks and Recreation explained that the city has worked with the Bureau of Reclamation who has an ownership interest in the property. If a dog park is added, the bureau indicated that they would require an environmental assessment and re-approvals, which would further delay the project.

Ms. Dolan explained that the Grayhawk Community Park is part of the Bond 2000 program. Staff hasn't yet formerly requested funding due to operational impacts that are being addressed.

Mayor Manross opened public comment.

**Melissa Davidson**, 8530 N. 80<sup>th</sup> Place, spoke in support of the proposed fields since they would provide needed practice areas.

**Alan Davidson**, 8530 N. 80<sup>th</sup> Place, also spoke in support of the planned facility. He urged Council to consider moving forward on the project.

**Julie Anderson**, 5201 E. Shangri-La, urged Council to approve the project.

**Sarah Anderson**, 5201 E. Shangri-La, stated her belief that it would be great to have the new soccer fields available.

**Scott Graham**, 10651 E. San Salvador Drive, stated his support of the additional fields. He explained that the community has lacked a plan to provide cohesive, comprehensive, lighted fields for practice and play. He urged Council not to delay this project.

**Bruce Barnhill**, 6682 E. Indian Bend Road, spoke in support of the proposed project. He explained the challenges for the children and adults due to the limited practice space available. He pointed out that the ability to hold tournaments in the city would be a large economic engine.

**Ken Moore**, 14615 N. 100<sup>th</sup> Way, stated his support of the project although soccer isn't the only sport that can be played on the proposed fields. He pointed out that the current fields in the city are over used.

**Brett Dinner**, 9800 N. 50<sup>th</sup> Street, pointed out that the city needs lighted soccer fields especially since there is a severe lack of fields in the city. He stressed the over-crowding of the currently available fields causing dust and scheduling problems.

**T.L. Wells**, 17211 N. 79<sup>th</sup> Street, spoke as a representative of a consortium of homeowners associations. He stated that the neighbor's objections have been addressed; therefore, they support the plan if certain conditions are met. The conditions include 1) the after dark usage for organized sports is to be contained in the depressed area where the light will be restricted to those areas, 2) the park will be maintained at all times to the city standards and expectations of the neighbors, 3) safety and security of park attendees and area residents be regulated, 4) the city maintain a trust of monies to protect the community, and 5) the city and area home owners meet annually, at the request of the homeowners, to discuss and evaluate the effectiveness of traffic controls intended to protect the community.

**Larry Heath**, 8608 E. Gail Road, commended city staff on the work they did on the plan. He stated that this project would supply the city with much needed sports fields and be a tremendous step forward. He felt that all areas of the city should stand on its own.

**Mariana Joy Paonessa**, 9358 E. Pine Valley Road, spoke in support of the planned park facility. She urged Council to create more and better fields since they are needed for the youth in the community. She stressed the conditions of the fields that are caused by over-crowding.

Mayor Manross closed public testimony.

Councilman Silverman explained his opinion that this project is an excellent example of what the city does right by meeting the needs of the community and addressing concerns.

Councilwoman Lukas explained that this project is about providing a place for youth to play. It is the type of creative thinking that the city must foster when dealing with increasing needs and a reduction of available land.

Councilman Littlefield expressed his delight to see this project move forward. He stressed that the project is about more than just soccer. He stated that he was a little disappointed to see how long it took to get this project done. He agreed that staff did an excellent job addressing legitimate concerns.

Vice Mayor O'Hearn acknowledged the technical expertise needed to compile staff's presentation since it was a superb example of how to present material in a clear, concise manner.

Mayor Manross reminded everyone that the city purchased the majority of the property in 1995 after which time the Bureau of Reclamation built a water retention facility in the area. The city then entered into an agreement with the PGA to ensure that the Phoenix Open would continue to be held within the community. She noted that the AZ Park Fund also provided a Heritage Grant for approximately one half million dollars.

COUNCILMAN SILVERMAN MOVED TO APPROVE A MUNICIPAL USE MASTER SITE PLAN FOR A CITY PARK ON 71 +/- ACRES LOCATED AT THE NORTHEAST CORNER OF HAYDEN AND BELL ROADS WITH TOWNHOUSE RESIDENTIAL, PLANNED COMMUNITY DEVELOPMENT (R-4 PCD) ZONING. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

**17. Strategic Action Plan**

**Request:** Direct staff to draft a strategic action plan to guide the city's future actions and decisions. The draft Strategic Action Plan would be shared with the community via forums in October 2003, followed by review and approval by the City Council during the annual City Council Workshop in November 2003.

**Related Policies, References:**

- Scottsdale Shared Vision, December 1992
- CityShape 2020 Comprehensive Report: Planning the Physical Form of Scottsdale's Shared Vision, March 1996
- City of Scottsdale General Plan 2001: Future in Focus, October 2001
- Mayor and City Council Mission and Goals, December 2002
- City of Scottsdale 2002-04 Economic Vitality Strategic Plan, Nov. 2002
- Which Way Scottsdale: Scottsdale 2.0, Morrison Institute for Public Policy, March 2003
- City Council Programs Matrix, June 2003
- "Good to Great," by Jim Collins
- "Execution," by Larry Bossidy and Ram Charan
- "The Rise of the Creative Class," by Richard Florida

**Staff contact(s):** Janet M. Dolan, City Manager, 480-312-2422, [JDolan@ScottsdaleAZ.gov](mailto:JDolan@ScottsdaleAZ.gov); Natalie N. Lewis, Asst. to the City Manager, 480-312-7806, [NLewis@ScottsdaleAZ.gov](mailto:NLewis@ScottsdaleAZ.gov)

Mayor Manross briefly introduced the item for discussion. Ms. Dolan noted that Councilman Ecton had requested this item be placed on the agenda. She noted that, although the city has historically done a great job at envisioning the future, vision isn't valuable if you don't execute a strategic plan. She explained that she is proposing that staff (at the leadership level) draft the plan, collect citizen input, and revise the plan as needed. Council would use this information to refine city goals and create a work program. Staff would then build on the work program to define staff resources, budget authority, etc. that would be needed to implement the strategic plan.

Councilman Ecton explained that it has become more obvious over the past year that a strategic plan is necessary. Although there have been many plans and visions compiled, no one has ever molded the issues into one plan. He stated that the city doesn't need to re-invent itself, just use the available tools to guide the future. The plan must be dynamic, supported by community leaders, responsible to all elements of the community, allow flexibility as the community evolves, key elements need to be identified, and must be action oriented.

Vice Mayor O'Hearn explained that he sees value in taking the reports over the years and creating a matrix to indicate points of agreement. He questioned the value of creating a plan based upon a new body of information. Ms. Dolan confirmed that the intent of this item is to use the information already compiled by various methods into a strategic plan not a matrix. She stated that staff would not go back out and ask citizens to do any more visioning. She noted that staff has reviewed the documents as they were available to the city. Based upon the common themes of the documents, staff would compile a list of major strategic actions they would recommend Council undertake so the visions are realized. This

information would be presented to the public in public forums where input could be gathered. Staff would then revise the recommendations in accordance with citizen input before presenting the information to Council for review and further revision. She stressed that the plan would not be politically driven.

Councilman Littlefield questioned how this process would be different from the goals the Council sets each year. Ms. Dolan explained staff's recommendations and public input would be included in the recommendations.

COUNCILMAN ECTON MOVED TO DIRECTED STAFF TO CREATE A STRATEGIC ACTION PLAN TO GUIDE THE CITY'S FUTURE ACTIONS AND DECISIONS. THE DRAFT STRATEGIC ACTION PLAN WOULD BE SHARED WITH THE COMMUNITY VIA PUBLIC FORUMS IN OCTOBER FOLLOWED BY REVIEW AND APPROVAL BY CITY COUNCIL DURING THE ANNUAL CITY COUNCIL WORKSHOP IN NOVEMBER. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

**\*\*\*14. Contracts for Litigation Legal Services The Pennartz Law Firm (Pulled from the Consent Agenda)**

Request:

1. Adopt Resolution No. 6360 authorizing the Mayor to execute Contract No. 2003-135-COS, an outside counsel contract in a maximum amount of Thirty Thousand Dollars (\$30,000.00) with THE PENNARTZ LAW FIRM, PLC for legal services regarding representation of the City of Scottsdale in litigation matters where Mr. Pennartz has personal knowledge including: the Scottsdale Waterfront project, personnel matters, and other various matters that arose while Mr. Pennartz was the Scottsdale City Attorney.
2. Adopt Resolution No. 6361 authorizing the Mayor to execute Contract No. 2003-136-COS, an outside counsel contract in a maximum amount of Fifty Thousand Dollars (\$50,000.00) with THE PENNARTZ LAW FIRM, PLC for representation of the City of Scottsdale in litigation matters involving the Los Arcos project located at the S.E. corner of Scottsdale and McDowell Roads.

**Related Policies, References:** COS Procurement Code Sections: 2-184 [definition of professional services] and 2-181D(2) [exemption from procurement code for contracts for settlement or threatened litigation]; Los Arcos Redevelopment Agreement No: 2003-115-COS.

**Staff Contact(s):** Donna M. Bronski, Deputy City Attorney, [dbronski@scottsdaleaz.gov](mailto:dbronski@scottsdaleaz.gov) (480) 312-2405.

Mayor Manross briefly explained that this item is consideration of two contracts for legal services. She stressed that this issue was never intended to remain on the agenda as a consent item. She noted that it was placed there on the first draft of the agenda; however, emphasized that items are often moved from one area of the agenda to another.

Ms. Dolan clarified that there are two contracts for Council's consideration with the Pennartz Law Firm, PLC. She further clarified that the former city attorney, David Pennartz, is the principal of the firm.

Ms. Dolan spoke to the proposed contract regarding the Scottsdale Waterfront project. She explained that the contract has a maximum amount of \$30,000; however, it has an hourly rate of \$165.00 attached to it.

Any hours billed would have to be approved by the acting city attorney or the city attorney should one be retained during the term of the contract.

She noted that the purpose of the contract is really a workload issue. Staff is under time constraints trying to get the Smitty's Redevelopment Agreement to Council, the Waterfront agreement to Council by October 7<sup>th</sup> with the city attorney's office being short one staff person. Staff brought the contract forward for consideration since Mr. Pennartz has intimate knowledge of the history of this project. However, in the one-week overlap since this item was proposed, Mr. Woodford has concluded that he could handle the Waterfront agreement based on information he was provided while working with Mr. Pennartz the week before his departure.

She noted that the other reason for the proposed contract was to provide Mr. Woodford the ability to consult with Mr. Pennartz regarding any other matters in which Mr. Pennartz provided advice or opinions. This would be more of a policy and administrative matter.

Mr. Woodford explained the second contract for Council's consideration has to do with the two lawsuits regarding the Los Arcos development contract. He estimated that one of the lawsuits should be settled in a timely manner; however, the second suit is a broad and complex matter. He noted that, per the city's agreement, the Ellman Companies would be paying for any legal counsel relating to the Los Arcos project.

Mr. Woodford expressed his opinion that it would be logical to acquire Mr. Pennartz's assistance with this matter due to his extensive knowledge of the case.

Councilman Littlefield stated his opposition to the contracts since they involve an individual who was employed by the city less than two weeks ago. He noted that the item was placed on the agenda while the individual was still employed by the city. Secondly, Councilman Littlefield didn't feel it was necessary due to the extended notice Mr. Pennartz provided to the city. He stated his belief that the city should have had adequate time to "debrief" Mr. Pennartz and bring other personnel up to speed on the various lawsuits. In summary, he felt the proposed contracts have a huge appearance of impropriety and sends a terrible message by rewarding employees who leave the city's employ. He stated his belief that the city should wait a year after an employee leaves city employment before hiring them for outside services.

Councilman Ortega requested clarification on the contract language. Attorney Bronski explained that the Procurement Code has a provision for sole source procurement for contract items. The provision allows for procurement of services when it would not make sense to look at other sources. In this situation, staff time would be saved and expertise would be acquired from an individual who is already familiar with the cases. In a normal process, the city would contact at least three sources for consideration.

In response to additional questions from Councilman Ortega, Ms. Bronski explained that there are some additional sections of the Procurement Code that apply in this situation that were not attached or included in the material supplied to Council.

Responding to questions from Councilman Ortega relating to the timing issue of the procurement process, Ms. Dolan stressed that Mr. Pennartz was not involved in any way with this proposal coming forward to Council. It was initiated at the staff level due to unresolved legal issues.

Councilman Ortega explained that Council has received information in response to his request for information on how staffing is handled in the city. He noted that the city has the highest per capita cost for their legal department of any city in the valley. He compared the statistics for Scottsdale with

neighboring cities to illustrate what he felt was a disparity between the costs associated with legal services based on the population.

Councilwoman Lukas disputed the Councilman Ortega's conclusions derived from the statistical information provided to Council since the information provided didn't include costs for outside services for some cities. She stated that some cities rely more heavily on outside legal services than other cities do.

Mayor Manross explained that the information on outside counsel isn't complete for all cities since some cities use different funding sources; therefore, figures weren't available to staff compiling the statistics. She questioned if it is fair to assume that additional attorney costs are due to the city's preservation acquisition. City Attorney Woodford explained that outside counsel figures are not complete on the chart. The number of attorneys in any given city has more to do with the type of activity the city is conducting than anything else. It would not be accurate to make an assumption strictly based on population since a lot of other factors impact the number of attorneys and the cost of outside legal services.

Councilman Ecton stated his belief that the real issue tonight is whether or not the city contract with Mr. Pennartz to continue his work on some very difficult cases. He noted that debriefing doesn't begin to cover all the new issues that arise during court. He stated that prudent business sense dictates that you "don't change horses in the middle of the stream". He stressed that continuity is necessary.

Councilman Littlefield expressed his belief that this is an ethical issue. He reaffirmed his belief that the city should wait a year before hiring individuals for outside services once they leave city employ.

Vice Mayor O'Hearn cautioned everyone to interpret the statistics that were provided very carefully. He agreed with the acting city attorney that all the information must be kept in perspective.

Councilwoman Lukas reminded everyone that the redevelopment agreement the city has with the Ellman Companies dictates that the Ellman Companies cover all legal expenses the city incurs associated with the Los Arcos project. She requested additional clarification as to the process the city would follow to obtain the reimbursement for legal expenses. Attorney Woodford explained that he sent a letter to the Ellman Companies last week notifying them that the city will bill them for legal fees incurred on a 30-day basis and expect payment within 20 days. He explained that he outlined the fee structure the city would be using and requested a signed reply although the city has not received the signed document as of yet.

In response to additional questions from Councilwoman Lukas, Attorney Woodford explained that the city attorney reports directly to the Mayor and City Council. He confirmed that the Human Resources Department wouldn't be involved in any change in work schedule for the city attorney.

Councilman Ortega emphasized that the statistics he referred to earlier were for staff costs. He also pointed out that Chandler is one of the fastest growing cities in the country. In comparison, the cost for legal staff (full time) in Scottsdale is at least double what many of the other valley cities budget.

Mayor Manross opened public testimony.

**Lyle Wurtz**, 6510 E. Palm Lane, reminded Council that, "might doesn't make right". He stressed his opposition to the proposed contracts. He stated his belief that allowing Mr. Pennartz time to start up his business while working for the city sure takes a lot of risk out of starting up a business.

**George Knowlton**, 8701 E. Valley View Road, stated his opposition to this item and stated his concern about what has recently occurred in the city. He stated his understanding that Mr. Pennartz was working one half the time for full time pay. He didn't feel this spoke well of Council and the city's legal department.

**Ted L. Murphy**, 8743 E. Valley View, spoke in opposition to the proposed contract. He stated that he didn't see anything that indicates that the city requested competitive bids to perform the work.

**Nancy Cantor**, 2529 N. 86<sup>th</sup> Street, spoke on behalf of the Scottsdale Coalition. She expressed concern that the public needs to understand what procurement sections are involved with this issue. She felt this issue flies in the face of Council's goal to have open and responsive government. She urged Council to look at the city's charter and the procurement code.

**Darlene Petersen**, 7327 E. Wilshire Drive, stated her belief that the city should hire the most knowledgeable person on the issue at hand. She felt the city must hire someone now for the Los Arcos and the Waterfront cases since it is time to move forward.

Mayor Manross closed public testimony.

Mayor Manross clarified that when Mr. Pennartz expressed an interest in going into private practice, she expressed regret that he wanted to leave the city. She explained the city stood the possibility of losing its city attorney without adequate time to conduct a national search or acquire an interim city attorney. In order to provide the city adequate time to find a temporary replacement, Mr. Pennartz indicated that he would provide the city with a four-month notice if the city could be flexible with his schedule and allow him to telecommute on certain days. He assured the Mayor that he would work a full week although not necessarily from eight to five. Mayor Manross explained that she agreed to the arrangement as long as he completed all duties; however, requested that Mr. Pennartz speak to each Council member about his decision and issues.

Councilwoman Lukas explained that her concern regarding this matter stemmed from the fact that the entire Council wasn't informed of the scheduling change. She questioned the entire process for such a change. She stated her belief that it wasn't the Mayor's prerogative to make the decision alone.

Councilman Ortega explained that many citizens are outraged that over the last four and one-half months that the city attorney didn't walk through any of the agreements involved in this item. He stated his belief that the city shouldn't accept that there is no other attorney in the city offices that could handle these cases. He suggested that the city could have gone through a procurement process if this item was placed on the agenda soon after Mr. Pennartz decided to resign. He felt this situation emphasizes that the city doesn't have the safeguards in place that would have provided a file or folder to transfer information from one attorney to another.

In response to questions from Mayor Manross, Ms. Dolan explained that Attorney Robberson is comfortable, based on meetings with Mr. Pennartz over the last few months, in handling this matter. If Council wishes Ms. Robberson to handle the Los Arcos case, the city would have to hire outside counsel to take on the caseload Ms. Robberson is currently handling. Even in this situation, Ms. Robberson would require the ability to converse further with Mr. Pennartz as the case progresses. Attorney Woodford explained that staff would adhere to Council's desire and whatever direction Council provides.

COUNCILMAN ORTEGA MOVED TO TABLE CONTRACT LITIGATION CONCERNING VARIOUS MATTERS REGARDING LOS ARCOS, RESOLUTION NO. 6361 AND RESOLUTION

NO. 6360 REGARDING THE SCOTTSDALE WATERFRONT PROJECT. THE MOTION DIED FOR LACK OF A SECOND.

After further discussion, Ms. Dolan explained that Attorney Woodford would be handling the Waterfront case. Attorney Bronski explained that the proposed contracts have been brought forward as a result of workload and timing issues. She briefly outlined the cases and workload currently being processed. She noted that staff is perfectly willing to proceed with Council's wishes, whatever they might be. If in the future the city still is in need of additional outside legal services to meet the various deadlines, the city would use other outside counsel.

Councilman Silverman expressed his belief that the city should hire the former city attorney for these issues only if he is the most qualified and knowledgeable person available. He stated his belief that Mr. Pennartz is the most qualified.

Vice Mayor O'Hearn pointed out that Council must consider that the city's interim attorney, Mr. Woodford, requested Council consider these two items. On the issue of Mr. Pennartz's time, Vice Mayor O'Hearn stressed that there has not been one shred of evidence put forward by anyone to indicate that Mr. Pennartz did not earn his keep after he gave the city notice of his pending resignation.

Finally, Vice Mayor O'Hearn explained his belief that Mr. Pennartz is the best person available to address the issues involved in the Los Arcos and Waterfront cases.

Councilman Ecton noted that he didn't recall how he knew that Mr. Pennartz's schedule had changed, but he knew it had. He emphasized that, in that time, he had no indication whatsoever that he wasn't doing his job. Mr. Pennartz responded to his requests in his usual timely manner. As far as costs, he felt that hiring Mr. Pennartz would be more cost efficient since he is already familiar with the cases.

VICE MAYOR O'HEARN MOVED TO **ADOPT** RESOLUTION NO. 6360 AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. 2003-135-COS, AN OUTSIDE COUNSEL CONTRACT IN A MAXIMUM AMOUNT OF THIRTY THOUSAND DOLLARS (\$30,000.00) WITH THE PENNARTZ LAW FIRM, PLC FOR LEGAL SERVICES REGARDING REPRESENTATION OF THE CITY OF SCOTTSDALE IN LITIGATION MATTERS WHERE MR. PENNARTZ HAS PERSONAL KNOWLEDGE INCLUDING: THE SCOTTSDALE WATERFRONT PROJECT, PERSONNEL MATTERS, AND OTHER VARIOUS MATTERS THAT AROSE WHILE MR. PENNARTZ WAS THE SCOTTSDALE CITY ATTORNEY AND **ADOPT** RESOLUTION NO. 6361 AUTHORIZING THE MAYOR TO EXECUTE CONTRACT NO. 2003-136-COS, AN OUTSIDE COUNSEL CONTRACT IN A MAXIMUM AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00) WITH THE PENNARTZ LAW FIRM, PLC FOR REPRESENTATION OF THE CITY OF SCOTTSDALE IN LITIGATION MATTERS INVOLVING THE LOS ARCOS PROJECT LOCATED AT THE S.E. CORNER OF SCOTTSDALE AND MCDOWELL ROADS. COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 5/2 (D.O., R.L.).

**City Manager's Report - None**

**Mayor and Council Items - None**

**Adjournment**

With no further business to discuss, Mayor Manross adjourned the meeting at 8:59 P.M.

**SUBMITTED BY:**

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**Ann Eyerly, Council Recorder**

**REVIEWED BY:**

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**Sonia Robertson, City Clerk**

### **C E R T I F I C A T E**

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 25th day of August 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

**DATED** this \_\_\_\_\_ day of August 2003.

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**SONIA ROBERTSON**  
City Clerk